

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MASS DYNAMICS, LLC, BOSTON	)	CIVIL ACTION NO. 19-12035
VAPOR, LLC, LINDA AND JEFFREY	)	
VICK d/b/a VICK'S VAPE SHOP,	)	
JIMBUDDY'S INCORPORATED, and,	)	
JERALD MOLLMAN d/b/a J'S VAPOR	)	
DEN,	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
CHARLES D. BAKER, in his official	)	
capacity as GOVERNOR OF THE	)	
COMMONWEALTH OF	)	
MASSACHUSETTS, MONICA BHAREL,	)	
M.D., in her official capacity as	)	
DEPARTMENT OF PUBLIC HEALTH	)	
COMMISSIONER, and	)	
COMMONWEALTH OF	)	
MASSACHUSETTS,	)	
Defendants.	)	

**PLAINTIFFS' MOTION TO WITHDRAW MOTION FOR PRELIMINARY  
INJUNCTION AND CANCEL EVIDENTIARY HEARING**

Plaintiffs, Mass Dynamics, LLC, Boston Vapor, LLC, Linda and Jeffrey Vick d/b/a Vick's Vape Shop, JimBuddy's Incorporated, and Jerald Mollman d/b/a J's Vapor Den (the "Plaintiffs"), respectfully move to withdraw their Motion for Preliminary Injunction, and to cancel the evidentiary hearing scheduled for October 15, 2019, so that the case may proceed in the normal course of adjudication with the benefit of discovery and a more complete record as to its significant federal constitutional issues.

In addition, an evidentiary hearing is already under way in a related case based on state-law claims, Vapor Technology Association, et al. v. Baker, et al., 1984 CV 03102 (Suffolk Super. Ct.). The Plaintiffs in this matter also have a matter pending before the Suffolk Superior Court involving this subject matter, Vapor Zone v. Massachusetts

Department of Public Health, et al., 1984 CV 03023 (Suffolk Super. Ct.), the outcome of which will likely be impacted by the outcome of evidentiary hearing underway in the matter pending before the Suffolk Superior Court, which is styled, Vapor Technology Association, et al. v. Baker, et al., 1984 CV 03102 (Suffolk Super. Ct.).

Respectfully submitted,

PLAINTIFFS,  
MASS DYNAMICS, LCC,  
BOSTON VAPOR, LLC,  
LINDA AND JEFFREY VICK d/b/a  
VICK'S VAPE SHOP,  
JIMBUDDY'S INCORPORATED,  
and JERALD MOLLMAN d/b/a  
J'S VAPOR DEN,  
By their attorney,

/s/ Craig E. Rourke

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Dated: October 11, 2019

### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was filed with the Office of the Civil Clerk for the United States District Court, District of Massachusetts, via electronic means, and will be sent electronically to the Defendants on October 11, 2019. Paper copies will be served by hand on the Defendants at the following addresses on October 11, 2019:

**Governor Charles Baker**

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**Commissioner of DPH Monica Bharel, M.D.**

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/s/ Craig E. Rourke  
Craig E. Rourke



**LOCAL RULE 7.1(A)(2) CERTIFICATION**  
**AND CERTIFICATE OF SERVICE**

I, Craig E. Rourke, hereby certify that counsel for the plaintiff in the related case which has been consolidated only for the purpose of this motion, conferred with counsel from the Office of the Massachusetts Attorney General on or around October 11, 2019 in an effort to resolve or narrow the issues presented in this motion prior to filing. In addition, my office attempted to contact counsel for the defendants via email and telephone prior to filing this motion.

/s/ Craig E. Rourke

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Craig E. Rourke